THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 18197 of 2005

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Dated : 18.08.2005

Between:

Smt. Gurujala Aruna W/o. Rangaiah
R/o. Savithrinagar, Nellore Town, Nellore District and another.

.....PETITIONERS

AND

The Revenue Divisional Officer, Nellore, Nellore District and another.

….**RESPONDENTS**

ORDER:

This writ petition is filed seeking a writ of mandamus declaring the proceedings dated 21.07.2005 issued by the second respondent-Mandal Revenue Officer, Nellore as arbitrary and illegal.

The case of the petitioners is that they were allotted plots bearing Nos.116/B2 and 116/B1 in S.No. 2040 of Nellore Town by the second respondent-Mandal Revenue Officer, Nellore, vide proceedings dated 17.06.1999, after conducting due enquiry. While so, the respondents tried to evict the petitioners from the said plots at the instance of a third party and the petitioners were constrained to file W.P.No. 6245 of 2003 and in the said writ petition, this Court directed the second respondent to enquire into the matter. However, without enquiring into the matter, the second respondent issued the impugned notice dated 21.07.2005 to the petitioners alleging that they have obtained the pattas by misrepresentation and they are not eligible for grant of house site pattas and that they have encroached plot No.113-C and directed the petitioners to evict the said plot.

The grievance of the petitioners is that they are in possession of plot Nos.116/B1 and 116/B2, that they have not encroached plot
No.113-C and that the second respondent issued the impugned notice without affording any reasonable opportunity to them and therefore, the impugned notice is liable to be set aside.

Prima facie, a reading of the impugned notice shows that it is passed contrary to the directions given by this Court in W.P.NO. 6245 of 2003 dated 16.04.2003, wherein, the learned Judge observed that the respondents have to conduct enquiry and take appropriate decision and that any action for dispossessing the petitioners without issuing notice to them would be illegal and that the petitioners may participate in the enquiry as and when the Mandal Revenue Officer issues notice. But, as seen from the impugned notice, no such notice was issued and on the other hand, it is stated that the Revenue Divisional Officer, Nellore through his order dated 07.06.2005 directed the petitioner to evict the plot bearing No.113-C and granted patta in favour of one Vella Mohan. Whereas, this Court, in the earlier writ petition, directed the Mandal Revenue Officer, but not the Revenue Divisional Officer to conduct an enquiry. Therefore, the impugned notice dated 21.07.2005 is contrary to the direction given by this Court, and the same is liable to be set aside.

Accordingly, the impugned notice dated 21.07.2005 is set aside and the writ petition is allowed. No costs.

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18.08.2005

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